
MINUTES of the COMPLAINTS COMMITTEE MEETING
Wednesday 2 August 2016 at 10.30 am
Gate House, 1 Farringdon Street, London EC4M 7LG

Present: Sir Alan Moses, Chairman
Richard Best
Lara Fielden
Janette Harkess
Gill Hudson
David Jessel
Matthew Lohn
Jill May
Neil Watts
Elisabeth Ribbans
Peter Wright **(Items 1-5 & 7-11)**
Nina Wrightson

In attendance: Elizabeth Bardin, Executive Assistant to Chairman
Ben Gallop, Head of Complaints
Michelle Kuhler, PA to CEO and minute taker
Bianca Strohmman, Head of Complaints

Also present: Members of the Executive:

Ciaran Cronin
Niall Duffy
Isabel Gillen-Smith
Vikki Julian
Robyn Kelly
Holly Pick
Liam Tedds
Charlotte Urwin

Observers: Jonathan Grun, Editors' Code of Practice Committee
Mehmuda Mian, Board Member

1. Apologies for Absence

Apologies were received from Matt Tee.

2. Declarations of Interest

Peter Wright declared an interest in Item 6. He left the meeting for this item.

3. Minutes of the Previous Meeting

The Committee approved the minutes of the meeting held on 22 June 2016 as a true and accurate record.

4. Update by the Chairman

The Chairman updated the Committee on recent events, including the recent Editors' Code of Practice Committee at which the revised Codebook was discussed.

He announced the appointment of Trish Haines as the Independent Reviewer of Complaints for IPSO. He thanked Rick Hill MBE, the outgoing reviewer, for his careful work on the reviews that he had undertaken.

The Chairman concluded by announcing the departure of Robyn Kelly from the Complaints Executive. The Committee wished to formally record its thanks for all the good work she had accomplished during her time with IPSO.

5. Matters Arising

There were no matters arising.

6. Complaint 03152-16 / 03153-16 HRH Duchess of Cambridge & HRH Prince George of Cambridge v Express.co.uk and OK!

The Committee discussed the complaints and ruled that the complaints be upheld. A copy of its rulings appear in **Appendix A**.

7. Complaint 03188-16 A man v Daily Record

The committee discussed the complaint and ruled that the complaint be upheld. A copy of its ruling appears in **Appendix B**.

8. Complaint 02436- Jukes v The Sunday Telegraph

The committee discussed the complaint and ruled that the complaint not be upheld.

A copy of its ruling appears in **Appendix C**.

9. Complaints not adjudicated at a Complaints Committee meeting

The committee confirmed its formal approval of the papers listed in **Appendix D**.

10. Any other business

The Committee had an informal discussion about the use of language and accuracy, in the context of issue-specific third party complaints.

11. Date of Next Meeting

The date of the next meeting was confirmed as Wednesday 7 September 2016.

The meeting ended at 12.20pm

Michelle Kuhler
PA to CEO

APPENDIX A

Decision of the Complaints Committee 03152-16 HRH The Duchess of Cambridge and HRH Prince George of Cambridge v Express.co.uk

Summary of complaint

1. HRH The Duchess of Cambridge and HRH Prince George of Cambridge complained to the Independent Press Standards Organisation that Express.co.uk breached Clause 2 (Privacy) of the Editors' Code of Practice in an online article headlined "Mummy, I'm a big boy now! Kate beams as cute George enjoys thrilling ride on police bike", published on 25 May 2016.
2. The article reported that two-year-old Prince George had been photographed sitting on a Metropolitan Police motorbike while his mother, the Duchess of Cambridge, looked on smiling. The article included an image of the scene, which had been captured in the grounds of Kensington Palace. The piece noted that similar pictures had been taken of Prince William and Prince Harry sitting on a police motorbike nearly 30 years ago.
3. The complainants' representatives said that the photograph had been taken in circumstances in which the Duchess of Cambridge and her two-year-old son had a reasonable expectation of privacy. They were engaged in a private activity; the images had been taken while they were on private, protected land where commercial photography is prohibited; and no permission for the images to be taken or published had been sought or obtained.
4. The complainants' representatives said that it was clear from the images that their clients had been unaware that they were being photographed, and that the photographs had been taken surreptitiously with a long-lens camera. They said that police officers had been in attendance nearby as a member of the Royal Family had been due to arrive by helicopter. They had spoken to the photographer who was on a public pathway, and who had an "SLR-style camera with a large telephoto lens". The photographer had claimed to be retired, and did not say that he intended to use, sell or provide photographs for publication. He was told not to take any photographs of the complainant or her son, who were waiting for the helicopter to land.
5. The complainants' representatives said that railings protected the land upon which the Duchess of Cambridge and her son had been standing when the images were taken. They noted that there are only a limited number of vantage points from which individuals within the grounds of the complainants' home might be seen, and even then it is difficult with the naked eye because of the distance.
6. The complainants' representatives considered that individuals – and young children in particular – have a reasonable expectation of privacy regarding the details of private family activities, including in semi-public or public locations. They expressed particular concern that photographs of a young boy playing inside the grounds of his private home had been taken for commercial gain. The fact that he might have been visible to some individuals outside his home did not remove

his reasonable expectation of privacy in such a situation. They said that no public interest was served by publishing the images.

7. At the beginning of IPSO's investigation, the newspaper said that the photographs had been taken by an agency photographer who had seen the interaction between the complainants and the police officers by chance as he returned from photographing the Trooping of the Colour. The photographer was not trespassing when the images were taken, and he had not used a long-lens camera. The newspaper acknowledged that the complainants had been standing on private land, but considered that they were clearly visible to the public. It did not consider that they could have had a reasonable expectation of privacy when they were "a matter of inches from the railings" and clearly visible to all who passed by.
8. At the end of IPSO's investigation, the newspaper said that it had previously obtained the photographer's version of events from the agency that had employed him; however, having made contact with the photographer directly, it had been given a different explanation. The photographer had said that he had been walking through the park on his way to the gym when he had happened to encounter armed police who were waiting for the arrival of members of the Royal Family by helicopter. He said that a large crowd had formed when he noticed Prince George, his mother and police officers. He said that he was 200 yards away when he photographed them with an 80mm-400mm camera.
9. The newspaper denied that the images had shown the complainants in a private interaction. The police officers were photographed while on duty, and the newspaper considered that it was important for the public to see how young members of the Royal Family interacted with public servants, particularly when the officers had been "commandeered for a three-year-old's entertainment". It said that as an heir to the throne, Prince George was not in the position of an "ordinary child"; he was a subject of great public interest. It said that as public servants, the public has a right to know what members of the Royal Family are doing. It did not consider that the press should be prevented from publishing otherwise harmless photographs of them, taken within view of the public, which show something out of the ordinary.

Relevant Code provisions

10. Clause 2 (Privacy)

- i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications.
- ii) Editors will be expected to justify intrusions into any individual's private life without consent. Account will be taken of the complainant's own public disclosures of information.
- iii) It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy.

The public interest

5. An exceptional public interest would need to be demonstrated to over-ride the normally paramount interests of children under 16.

Findings of the Committee

11. The Committee acknowledged that – as members of the Royal Family – the complainants are public figures; however they were photographed standing within the grounds of their private home, in a position that was not easily visible to the photographer; they were not carrying out any official duties, and they were unaware that they were being photographed. The photographer had himself acknowledged that he had used a long-lens camera to photograph the complainants who were standing 200 yards away from him. The Committee also noted that Prince George is a young child who had been engaged in a private interaction with his mother and police officers at the time the photographs were taken.
12. The Committee noted that it was not being asked to decide whether an adult alone in these circumstances would have had a reasonable expectation of privacy. It was satisfied, however, that together the complainants had a reasonable expectation of privacy at the time they were photographed. The newspaper had not obtained their consent, and, as such, it was required to demonstrate that the photography was justified in the public interest.
13. The Committee noted the newspaper's position that there was a public interest in reporting how Prince George had engaged with public servants. However, the Committee did not accept that any public interest had been served by the publication of these images, which simply showed Prince George playing on a police motorbike.
14. The Committee did not therefore accept that the newspaper had demonstrated a sufficient public interest to justify publication of the photographs. Any general public interest in the activities of the Royal Family was inadequate, particularly in the case of Prince George, given that the Code requires an exceptional public interest to over-ride the normally paramount interests of children under 16. The complaint under Clause 2 was upheld.

Conclusions

15. The complaint was upheld.

Remedial action required

16. Having upheld the complaint, the Committee considered what remedial action should be required.
17. Where the Committee has upheld a complaint as a breach of Clause 2, the appropriate remedial action is the publication of an adjudication.
18. The article was published online only; as such the adjudication should be published online, with a link to it (including the headline) being published on the newspaper's homepage for 24 hours. The publication should contact IPSO to confirm the amendments it now intends to make to the online article to avoid the continued publication of material in breach of the Editors' Code of Practice.

19. The terms of the adjudication to be published are as follows:

HRH The Duchess of Cambridge and HRH Prince George of Cambridge complained to the Independent Press Standards Organisation that Express.co.uk breached Clause 2 (Privacy) of the Editors' Code of Practice in an article headlined "Mummy, I'm a big boy now! Kate beams as cute George enjoys thrilling ride on police bike", published on 25 May 2016.

IPSO upheld the complaint, and has ordered Express.co.uk to publish its decision as a remedy.

The article reported that two-year-old Prince George had been photographed sitting on a police motorbike while his mother looked on. The article included an image of the scene, which had been captured in the grounds of Kensington Palace.

The complainants' representatives said that the photograph had been taken while the Duchess of Cambridge and her son were engaged in a private activity within the private grounds of their home. They had been unaware that they were being photographed; no permission for the images to be taken or published had been sought or obtained. The fact that they might have been visible to some individuals outside their home did not remove their reasonable expectation of privacy. They said that no public interest was served by publishing the images.

The newspaper did not consider that the complainants could have had a reasonable expectation of privacy when they were clearly visible to all who passed by. It also denied that the images had shown them in a private interaction; the police officers were photographed while on duty; and the newspaper considered that it was important for the public to see how young members of the Royal Family interacted with public servants. It said that as an heir to the throne, Prince George was a subject of great public interest.

The Committee was satisfied that the complainants had a reasonable expectation of privacy at the time they were photographed: they were standing within the grounds of their private home, in a position that was not easily visible to the photographer who was 200 yards away and using a long-lens camera. The newspaper had not obtained their consent, and, as such, it was required to demonstrate that the photography was justified in the public interest.

The Committee did not accept that any public interest had been served by the publication of the images, which simply showed Prince George playing on a police motorbike. Any general public interest in the activities of the Royal Family was also inadequate, particularly in the case of Prince George, given that the Code requires an exceptional public interest to over-ride the normally paramount interests of children under 16. The complaint under Clause 2 was upheld.

Decision of the Complaints Committee
03153-16 HRH The Duchess of Cambridge and HRH Prince George of Cambridge
v OK!

Summary of complaint

1. HRH The Duchess of Cambridge and HRH Prince George of Cambridge complained to the Independent Press Standards Organisation that OK! breached Clause 2 (Privacy) of the Editors' Code of Practice in an online article headlined "The Duchess of Cambridge proudly watches son Prince George as he rides a police motorbike", published on 25 May 2016.
2. The article reported that two-year-old Prince George had been photographed sitting on a Metropolitan Police motorbike while his mother, the Duchess of Cambridge, looked on smiling. The article included an image of the scene, which had been captured in the grounds of Kensington Palace.
3. The complainants' representatives said that the photograph had been taken in circumstances in which the Duchess of Cambridge and her two-year-old son had a reasonable expectation of privacy. They were engaged in a private activity; the images had been taken while they were on private, protected land where commercial photography is prohibited; and no permission for the images to be taken or published had been sought or obtained.
4. The complainants' representatives said that it was clear from the images that their clients had been unaware that they were being photographed, and that the photographs had been taken surreptitiously with a long-lens camera. They said that police officers had been in attendance nearby as a member of the Royal Family had been due to arrive by helicopter. They had spoken to the photographer who was on a public pathway, and who had an "SLR-style camera with a large telephoto lens". The photographer had claimed to be retired, and did not say that he intended to use, sell or provide photographs for publication. He was told not to take any photographs of the complainant or her son, who were waiting for the helicopter to land.
5. The complainants' representatives said that railings protected the land upon which the Duchess of Cambridge and her son had been standing when the images were taken. They noted that there are only a limited number of vantage points from which individuals within the grounds of the complainants' home might be seen, and even then it is difficult with the naked eye because of the distance.
6. The complainants' representatives considered that individuals – and young children in particular – have a reasonable expectation of privacy regarding the details of private family activities, including in semi-public or public locations. They expressed particular concern that photographs of a young boy playing inside the grounds of his private home had been taken for commercial gain. The fact that he might have been visible to some individuals outside his home did not remove his reasonable expectation of privacy in such a situation. They said that no public interest was served by publishing the images.

7. At the beginning of IPSO's investigation, the magazine said that the photographs had been taken by an agency photographer who had seen the interaction between the complainants and the police officers by chance as he returned from photographing the Trooping of the Colour. The photographer was not trespassing when the images were taken, and he had not used a long-lens camera. The magazine acknowledged that the complainants had been standing on private land, but considered that they were clearly visible to the public. It did not consider that they could have had a reasonable expectation of privacy when they were "a matter of inches from the railings" and clearly visible to all who passed by.
8. At the end of IPSO's investigation, the magazine said that it had previously obtained the photographer's version of events from the agency that had employed him; however, having made contact with the photographer directly, it had been given a different explanation. The photographer had said that he had been walking through the park on his way to the gym when he had happened to encounter armed police who were waiting for the arrival of members of the Royal Family by helicopter. He said that a large crowd had formed when he noticed Prince George, his mother and police officers. He said that he was 200 yards away when he photographed them with an 80mm-400mm camera.
9. The magazine denied that the images had shown the complainants in a private interaction. The police officers were photographed while on duty, and the magazine considered that it was important for the public to see how young members of the Royal Family interacted with public servants, particularly when the officers had been "commandeered for a three-year-old's entertainment". It said that as an heir to the throne, Prince George was not in the position of an "ordinary child"; he was a subject of great public interest. It said that as public servants, the public has a right to know what members of the Royal Family are doing. It did not consider that the press should be prevented from publishing otherwise harmless photographs of them, taken within view of the public, which show something out of the ordinary.

Relevant Code provisions

10. Clause 2 (Privacy)

- i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications.
- ii) Editors will be expected to justify intrusions into any individual's private life without consent. Account will be taken of the complainant's own public disclosures of information.
- iii) It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy.

The public interest

5. An exceptional public interest would need to be demonstrated to over-ride the normally paramount interests of children under 16.

Findings of the Committee

11. The Committee acknowledged that – as members of the Royal Family – the complainants are public figures; however they were photographed standing within the grounds of their private home, in a position that was not easily visible to the photographer; they were not carrying out any official duties, and they were unaware that they were being photographed. The photographer had himself acknowledged that he had used a long-lens camera to photograph the complainants who were standing 200 yards away from him. The Committee also noted that Prince George is a young child who had been engaged in a private interaction with his mother and police officers at the time the photographs were taken.
12. The Committee noted that it was not being asked to decide whether an adult alone in these circumstances would have had a reasonable expectation of privacy. It was satisfied, however, that together the complainants had a reasonable expectation of privacy at the time they were photographed. The magazine had not obtained their consent, and, as such, it was required to demonstrate that the photography was justified in the public interest.
13. The Committee noted the magazine's position that there was a public interest in reporting how Prince George had engaged with public servants. However, the Committee did not accept that any public interest in this had been served by the publication of these images, which simply showed Prince George playing on a police motorbike.
14. The Committee did not therefore accept that the magazine had demonstrated a sufficient public interest to justify publication of the photographs. Any general public interest in the activities of the Royal Family was inadequate, particularly in the case of Prince George, given that the Code requires an exceptional public interest to over-ride the normally paramount interests of children under 16. The complaint under Clause 2 was upheld.

Conclusions

15. The complaint was upheld.

Remedial action required

16. Having upheld the complaint, the Committee considered what remedial action should be required.
17. Where the Committee has upheld a complaint as a breach of Clause 2, the appropriate remedial action is the publication of an adjudication.
18. The article was published online only; as such the adjudication should be published online, with a link to it (including the headline) being published on the magazine's homepage for 24 hours. The publication should contact IPSO to confirm the amendments it now intends to make to the online article to avoid the continued publication of material in breach of the Editors' Code of Practice.

19. The terms of the adjudication to be published are as follows:

HRH The Duchess of Cambridge and HRH Prince George of Cambridge complained to the Independent Press Standards Organisation that OK! breached Clause 2 (Privacy) of the Editors' Code of Practice in an article headlined "The Duchess of Cambridge proudly watches son Prince George as he rides a police motorbike", published on 25 May 2016.

IPSO upheld the complaint, and has ordered OK! to publish its decision as a remedy.

The article reported that two-year-old Prince George had been photographed sitting on a police motorbike while his mother looked on. The article included an image of the scene, which had been captured in the grounds of Kensington Palace.

The complainants' representatives said that the photograph had been taken while the Duchess of Cambridge and her son were engaged in a private activity within the private grounds of their home. They had been unaware that they were being photographed; no permission for the images to be taken or published had been sought or obtained. The fact that they might have been visible to some individuals outside their home did not remove their reasonable expectation of privacy. They said that no public interest was served by publishing the images.

The magazine did not consider that the complainants could have had a reasonable expectation of privacy when they were clearly visible to all who passed by. It also denied that the images had shown them in a private interaction; the police officers were photographed while on duty; and the magazine considered that it was important for the public to see how young members of the Royal Family interacted with public servants. It said that as an heir to the throne, Prince George was a subject of great public interest.

The Committee was satisfied that the complainants had a reasonable expectation of privacy at the time they were photographed: they were standing within the grounds of their private home, in a position that was not easily visible to the photographer who was 200 yards away and using a long-lens camera. The magazine had not obtained their consent, and, as such, it was required to demonstrate that the photography was justified in the public interest.

The Committee did not accept that any public interest had been served by the publication of the images, which simply showed Prince George playing on a police motorbike. Any general public interest in the activities of the Royal Family was also inadequate, particularly in the case of Prince George, given that the Code requires an exceptional public interest to over-ride the normally paramount interests of children under 16. The complaint under Clause 2 was upheld.

APPENDIX B

Decision of the Complaints Committee 03188-16 A man v Daily Record

Summary of Complaint

1. A man complained to the Independent Press Standards Organisation that the Daily Record breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Cops: Mob rule outside Hampden blocked us from getting in to help", published in print on 26 May 2016, and "Cops claim mob rule outside Hampden stopped them getting in to deal with battling Rangers and Hibs fans", published online on 25 May 2016.
2. The article reported that police officers outside Hampden Park football ground claimed that they were prevented by Glasgow Rangers supporters from entering the stadium to deal with the disorder that was taking place on the pitch. It quoted an unnamed police officer who said he was part of a group of 75 officers who were on public order duty on the day of the match. The officer said that supporters "started hitting and spitting at the vans, trying to rock the vans, kicking the vans, trying the doors. This isn't a few bad eggs in the crowd, this was everyone walking past us". He said that a "mob mentality" prevailed outside the stadium, and that parents had used their children to block roads. It stated that the officer was "addressing criticism of the police reaction to the Hibs fans' pitch invasion".
3. The article said that this account was backed up by other officers, and quoted one who said "we heard lots of vans were attacked by Rangers fans, preventing police getting to the stadium quickly". Another officer was quoted as saying that "a few of the lads were stopped from getting in the stadium when their vans were ambushed by Rangers fans outside the stadium. They've just joined in with mob mentality and surged towards the cops". It reported that Police Scotland were asked to address the officers' accounts, but they responded with a general statement about the incident.
4. The print article was accompanied by a smaller piece which said that the newspaper had put the accounts it had received from "multiple independent sources" to Police Scotland to be verified, but received a reply which did not address the matters raised. This article also contained a quote from the General Secretary of the Scottish Police Federation, who said that the actions of fans outside the stadium was "disgraceful". Aside from this and the different headlines, the print and online versions were identical.
5. The complainant said that he was outside the stadium as police vans attempted to make their way through Rangers supporters. He said that the police did not activate their sirens and made no attempt to drive around cars that were stuck due to the number of people on the road. He said that while there was sarcastic applause from the majority of fans and some "mild verbal abuse" directed at the police due to their late arrival, there were no confrontations. He said that it was nonsense to suggest that parents were using their children to block the road. He denied that anybody hit or spat at police vans, and said it was inaccurate to report that "everybody walking past" had taken part in what the article said had taken place. The complainant said that the article had not provided any photographic or video evidence of the "attacks", and said that it was totally fabricated.

6. The newspaper said that it received an email from somebody who identified himself as a serving police officer who described the incident in detail; it said it had been unable to verify whether or not the person who sent the email was a police officer. However, it said that the allegations had been set out as claims rather than facts, and that it had taken sufficient care over the article. It said that the account was checked with two further police sources, neither of whom were present at the incident: one said that there had been “chat” amongst officers about the incident, while the other gave an account which tallied with the information in the email. It said it had also contacted the General Secretary of the Scottish Police Federation, who said that some of the accounts he had heard accorded with the account provided in the email.
7. The newspaper also provided a tweet from somebody who it said was a Rangers supporter who appeared to confirm that the incident had taken place. It said it did not contact Rangers Football Club, as the matter did not relate directly to them; it said it did not contact a Rangers fans group because it said that at the time of the incident, there was no formal group the newspaper could contact. However, it said that once it received complaints about the article from Rangers supporters, it published their responses on the following day. It said that it also offered, having met with a Rangers fans group which had formed following publication of the article, the opportunity to publish their response to the incident. In addition, it offered to publish the following clarification at the end of the article:

On Thursday, May 26, in an article regarding the aftermath of the Scottish Cup Final we reported the eye-witness account of a police officer on duty, who said his van came under attack from irate Rangers fans. The article contained the quote: “This isn’t a few bad eggs in the crowd – this was everyone walking past us.” The Daily Record accepts this allegation was incorrect.

Relevant Code Provisions

8. Clause 1 (Accuracy)
 - i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.
 - ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

Findings of the Committee

9. The requirement to “take care” under Clause 1(i) of the Code is context specific: the level of care required will depend on the full circumstances of the material published. This will include the nature and significance of the material complained of and, where an article contains allegations about the conduct of a person or group, their seriousness.
10. In this instance, the newspaper had published a number of allegations of serious wrongdoing by Rangers supporters, on the basis of an account provided by an individual who approached the newspaper, by email, claiming to be a police officer.

11. These allegations were made in response to criticism over the way in which the police had handled the pitch invasion; the email questioned why the newspaper had been “happy to criticise the response time of Police Scotland” in an earlier article, but had not seen fit to report on the “conduct of the Rangers fans leaving the ground”, which it went on to describe.
12. The newspaper said it had attempted to verify the account provided in the email with three further police contacts. However, the newspaper had not contacted anyone able to provide a first-hand account of what occurred after the match. Further, it had been unable to demonstrate that any of the sources it had relied on could reasonably be described as “independent”, as the article had claimed.
13. In circumstances where Rangers supporters were accused of violence towards police, and other anti-social behaviour, the attempts it had made to support the account of an unidentified source it had been unable to verify were not sufficient to demonstrate that care had been taken over the accuracy of the article. Given the seriousness of the allegations, and given that the unidentified source appeared to be a police officer seeking to address criticism over the conduct of the police following the match, it was of particular concern that the newspaper had sought to corroborate the account only with police contacts, none of whom were present during the alleged incidents. In addition, the manner in which the claims had been published gave the significantly misleading impression that they had been corroborated by multiple independent eyewitnesses. The complaint was upheld as a breach of Clause 1(i).
14. The newspaper had offered to publish a correction which said that it was incorrect to report that “everyone walking past” was involved in the incident; it had also published responses to the article from individual Rangers supporters, and offered to publish a reply to the article from a Rangers fans group. However, where the newspaper was unable to demonstrate the accuracy of the serious allegations set out in the article, and in light of the Committee’s finding that the article gave a significantly misleading impression of the extent to which those allegations had been corroborated, the Committee did not consider that these actions were sufficient to meet the requirements of Clause 1(ii) of the Code.

Conclusions

15. The complaint was upheld.

Remedial Action Required

16. Having upheld the complaint, the Committee considered the remedial action that should be required. Given the seriousness of the allegations about the Rangers supporters, the newspaper’s failure to demonstrate that care had been taken over the accuracy of the article, and that the action offered by the newspaper were insufficient to meet the requirements of Clause 1(ii), the appropriate remedial action was the publication of an upheld adjudication. The headline of the adjudication must make clear that IPSO has upheld the complaint, and refer to its subject matter; it must be agreed in advance. The original article had appeared on page 6 and 7, and the adjudication should appear on page 6 or further forward. It should also be published on the newspaper’s website, with a link to the

full adjudication appearing on the homepage for 24 hours; it should then be archived in the usual way. Should the newspaper continue to publish the article online, without amendment, in light of this decision it should publish the adjudication in full, beneath the headline.

17. The terms of the adjudication to be published are as follows:

Following an article published in the Daily Record on 26 May 2016 headlined "Cops: Mob rule outside Hampden blocked us from getting in to help" in print, and "Cops claim mob rule outside Hampden stopped them getting in to deal with battling Rangers and Hibs fans," online, a man complained to the Independent Press Standards Organisation that the Daily Record had breached of Clause 1 (Accuracy) of the Editors' Code of Practice. IPSO upheld the complaint and has required the Daily Record to publish this decision as a remedy to the breach.

The article reported that police officers outside Hampden Park claimed that they were prevented by Rangers supporters from entering the stadium to deal with the disorder that was taking place on the pitch. It quoted an unnamed police officer who said that a "mob mentality" prevailed outside the stadium, and accused parents of using their children to block roads. The officer said that supporters "started hitting and spitting at the vans, trying to rock the vans, kicking the vans, trying the doors. This isn't a few bad eggs in the crowd, this was everyone walking past us". It said that the officer was "addressing criticism of the police reaction to the Hibs fans' pitch invasion". The article also quoted three other police sources, who supported the account given by the police officer.

The complainant said that he was outside the stadium as police vans attempted to make their way through Rangers supporters. He said that while there was sarcastic applause from the majority of fans and some "mild verbal abuse" directed at the police due to their late arrival, there were no confrontations. He said that it was nonsense to suggest that parents were using their children to block the road. He denied that anybody hit or spat at police vans, and said it was inaccurate to report that "everybody walking past" had taken part in what the article said had taken place. He said that the article was totally fabricated and there were thousands of witnesses who would say likewise.

The newspaper said that it had received an email from somebody who identified himself as a serving police officer who described the incident in detail; it said it had been unable to verify whether or not the person who sent the email was in fact a police officer. It said that the journalist checked the account with two further police sources, neither of whom were present at the incident. It also said it had contacted the General Secretary of the Scottish Police Federation who said that some of the accounts he had heard accorded with the account in the email. It said that these allegations had been presented as claims rather than facts in the article, and that it had taken sufficient care over the article's accuracy.

The Committee found that the newspaper had taken insufficient steps to take care over the accuracy of the article. Given the seriousness of the allegations, and given that the unidentified source appeared to be a police officer who wanted to address criticism over the conduct of the police following the match, it was concerning that the newspaper had sought to corroborate the account only with police contacts who were not present during the alleged incidents. Additionally, the claims had been published in such a way that they gave the significantly misleading impression

that they had been corroborated by multiple independent eyewitnesses. The complaint was upheld as a breach of Clause 1.

APPENDIX C

Decision of the Complaints Committee 02436-16 Jukes v The Sunday Telegraph

Summary of complaint

1. Peter Jukes complained to the Independent Press Standards Organisation that The Sunday Telegraph breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "The truth about Whittingdale, the prostitute and the 'cover up'", published on 17 April 2016.
2. The article followed media reports that Culture Secretary John Whittingdale had had a relationship with a sex worker. It made a number of claims about Byline.com, the site that had first reported the story, and the complainant, referred to in the article as the site's "manager". The article reported details about the site's funding, noting that, while the complainant claimed the site was "crowdfunded" by donations from readers, Companies House showed that it was largely funded by three billionaires, and that it had also been funded by a named well known individual. The article also claimed that the site, and the complainant, had links to "controversial campaign group Hacked Off".
3. The online article was the same as the print version.
4. The complainant expressed concern that the newspaper had not contacted him, or Byline.com, prior to publication. He said that, as a result of this, the article included a number of inaccuracies.
5. The complainant said that the article had misrepresented the way in which Byline.com was funded. He said that any donations from readers were made to individual journalists, to fund specific stories, and not to the site itself. The site generally collected 15% of these donations towards running costs. However, at the time that the well known individual had donated to a journalist, all fees were waived, and so his donation had not contributed to running costs. The complainant said that he had not claimed that the site was "crowdfunded", as reported; rather, he had claimed that individual journalists were financed via crowdfunding. The complainant said it was misleading for the article to suggest that the three main funders of the site had been "revealed"; the information was available via Companies House.
6. The complainant said it was inaccurate to describe him as the "manager" of Byline.com. Rather he had previously advised the site on crowdfunding, and now had the role of "co-curator". He also denied the article's claim that he had been "paid" by Hacked Off; he had once received an unsolicited donation from the group via a crowdfunding platform, but had never been hired or employed by them.

7. The complainant said that all journalists published by Byline.com were entitled to present their own interpretation of events reported, and the site did not take an editorial line. It was therefore misleading for the article to suggest that Byline.com had changed its position on the Whittingdale story in stating that the site “later admitted” that Mr Whittingdale’s former partner’s alleged connections to the criminal underworld were “as yet unsubstantiated”. The complainant also said it was inaccurate to report that “Byline worked alongside Hacked Off to promote the story to the BBC and other outlets”. Furthermore, Jae-woong Lee, a South Korean billionaire who funded Byline.com, was not the father of the site’s founder Seung-yoon Lee as reported.
8. The complainant said that it was inaccurate to report that Byline.com shared a number of journalists with “investigative site Exaro”; only one contributor had written for both sites. Nor had Byline.com promoted claims of a “Westminster child sex abuse ring’ involving prominent establishment figures” as reported.
9. The complainant also said that it was inaccurate to report that one of the founders of Byline.com, “wrote regularly” for another named site; the site had “pirated” the articles from other sources.
10. The newspaper noted that there was no obligation to seek comment from the subjects of news stories prior to publication. The majority of information in the article had come from sources in the public domain. The journalist had been told by a source close to Byline.com that Jae-woong Lee and Seung-yoon Lee were related. He trusted that the source was in a position to know this information, and so had not verified the claim with the site. The newspaper did not accept that this was a significant inaccuracy, given that the relationship was only introduced parenthetically, in the context of an article setting out the main backers of Byline.com. Nonetheless, it had removed the reference to the relationship from the article as a gesture of goodwill and offered to publish the following footnote:

CORRECTION: As first published, this article wrongly stated that Jae-Woong Lee, a funder of byline.com, is the father of the site's founder Seung-yoon Lee. In fact, the two men are unrelated. We are happy to make this clear, and the article has been amended accordingly.

It also offered to publish the following correction in print, in its Corrections and Clarifications column:

An article of 17 April wrongly stated that Jae-Woong Lee, a funder of byline.com, is the father of the site's founder Seung-yoon Lee. In fact, the two men are unrelated. We are happy to make this clear.

11. The newspaper did not accept that the article included any other inaccuracies. The Linked in page of the site’s founder referred to the complainant as its manager. Furthermore, the newspaper did not consider any discrepancy between “manager” and “co-curator” to be significant. The newspaper noted that the complainant had confirmed that he had received money from Hacked Off, and that the named well known individual had contributed to Byline.com, in funding one story. The

newspaper noted that between the publication of the first article on Byline.com about John Whittingdale and the reporting of the story by the BBC Byline.com ran four more articles on the matter, and retweeted individuals with links to Hacked Off, asking when the BBC would act. Hacked Off issued a press release referring readers to the Byline.com piece. It was not therefore inaccurate to report that the site had worked alongside Hacked Off to promote the story to the BBC.

12. The newspaper noted that Byline.com had published an article on 1 April, in which it reported that “while [Mr Whittingdale’s former partner] was involved with Whittingdale, [she] was also involved in a relationship with a member of the London underworld”. A further article appeared on the site on 10 April, which noted that rumours that the woman had connections to the criminal underworld were “as yet unsubstantiated”.
13. The newspaper provided articles published on Byline.com which appeared to defend the investigation into the alleged “Westminster child sex abuse ring”, it noted that at least three Byline.com writers, including the complainant, had contributed to Exaro, and that the complainant had written at least two articles for the site.
14. The newspaper noted that the founder’s articles remained published on the named site, and had not been removed.

Relevant Code provisions

15. Clause 1 (Accuracy)
 - (i) The Press must take care not to publish inaccurate, misleading or distorted information, including pictures.
 - (ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and – where appropriate – an apology published.

Findings of the Committee

16. Clause 1 requires that care is taken to avoid the publication of significant inaccuracies; this may include by seeking comment from the subjects of a story. However, provided that the requirements of 1 (i) are otherwise met, the Code does not impose an absolute obligation to do so.
17. The claim that one of the site’s funders was the father of the site’s founder was inaccurate, and the Committee welcomed the newspaper’s offer of correction. However, this was a brief reference which was not central to the story, and did not affect the overall thrust of the piece. It was not therefore a significant inaccuracy in breach of Clause 1.
18. The Committee did not accept the rigid distinction that the complainant sought to draw between funding for the site’s infrastructure and funding for the content. It

did not therefore consider that it was misleading to characterise funding provided to individual journalists to provide specific content for Byline.com as funding for the site. It was not therefore misleading for the article to report that the notable donor had “funded” the site, nor that the complainant has claimed that the site was “crowdfunded”. The article had not suggested that details of the site’s funders were hidden, rather it sought to criticise the complainant for claiming the source of the funding was “crowdsourcing” where in fact the site also received money from wealthy donors.

19. The Committee did not consider that any discrepancy between the role of “co-curator” and “manager” was significant. There was no breach of the Code on this point. The complainant had acknowledged that he had previously received money from Hacked Off. The article had not claimed that he had been employed by the group, and it was not inaccurate to report that he had “been paid by” them, even though he had also received money from others.
20. The Committee noted the complainant’s position that Byline.com did not take single editorial approaches to any one issue. However, the site had published an article which claimed that Mr Whittingdale’s former partner had links to the criminal underworld and had later published a second article noting that these claims were “as yet unsubstantiated”. The newspaper was entitled to characterise the differing approaches of these articles in the way that it did.
21. The newspaper had provided examples of articles published by Byline.com, supporting the theory that there was a “Westminster sex abuse” ring, and at least three journalists who had written for the site also had profiles at Exaro. It was not therefore misleading for the article to report that the site had “promoted and defended” the sex abuse theory, and that it shared a number of journalists with Exaro.
22. Byline.com had followed up its first story about Mr Whittingdale’s relationship with a number of other articles on the subject. Hacked Off had published a blog post, questioning why the story had not previously been reported by the mainstream media. This post had been promoted on Twitter by representatives of Hacked Off and by Byline.com. The newspaper had not suggested that there was evidence of collaboration between the two, but had noted that they were working in parallel to achieve a shared aim. Given that the objective of both groups was to ensure that the story was published more widely, it was not significantly misleading for the newspaper to characterise Byline.com as “working alongside” Hacked Off “to promote the story to the BBC and other outlets”.
23. In circumstances where the founder’s work appeared regularly on the named site, the newspaper was entitled to report that he “wrote” for the site. In the absence of a direct complaint from the founder, the Committee was unable to establish whether or not he had consented to publication.

Conclusions

24. The complaint was not upheld.

APPENDIX D

Paper No.	File Number	Name v Publication
704	02182-16	Martinez v Hampstead and Highgate Express
707		Third party
708		Request for review
709	02370-16	Walker v The Sun
713		Request for review
716		Third party
717		Request for review
719	02499-16	Love v Ayr Advertiser
721	00615-16	Prevent Watch v The Sunday Telegraph
725	03005-16	Weir v Braintree & Witham Times
726	01829-16	Connor v Daily Record
727	02514-16	Lynch v Salisbury Journal
730	01535-16	Rashid v The Sunday Times
731		Request for review
732	02055-16	Martin v Bristol Post
733	01855-16	de Cadenet v Daily Mirror
734	02988-16	Kiai v The Sun
735		Third party
736		Request for review
737	03193-16	Versi v Mail Online
738	02680-16	Janner v Mail Online
739		Third party
740		Request for review